

COMMISSIONERS APPROVAL

CHILCOTT 

LUND 

THOMPSON 

TAYLOR (Clerk & Recorder)

Date.....February 2, 2005

Members Present.....Commissioner Greg Chilcott,
Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles

The Board met with Juvenile Detention Supervisor Lori Roderick relative to an update and discussion of cameras in the detention center. Also present was Justice of Peace Jim Bailey and Justice of Peace Robin Clute along with Jennifer Ray, the Administrative Clerk for Judge Bailey.

Lori relayed that in regard to the re-construction for this area, the demolition starts this weekend so by the end of next week all of the construction should be completed. Currently the juvenile detention budget does not look good because of the outsourcing. But her camera system has gone out. Two months ago a juvenile female attacked two of her detention officers and while the system appeared to be running correctly it did not record the incident. This system is over 10 years old and is obsolete. Lori stated she is looking at installing a digital system and the lowest bid thus far is \$6,500.00 with another bid coming in at \$7,300.00. The \$7,300.00 bid was submitted by a security company that installs cameras in Farmers State Banks around the area. The \$6,500.00 bid was submitted by a vendor did not show up for the last two appointments. The third bid Lori received was \$21,000.00. The cameras are part of the licensing requirements by the state.

Lori stated by having her long-term license she has saved almost \$10,000.00 in the last few months by keeping the juveniles in Hamilton rather than shipping them off to Great Falls. Her budget has already spent \$40,000.00 in other outsourcing so her budget does not look too good at this time.

She stated the cost to install the cameras would cost less if they are installed during the time of re-construction. She does not have this money in her budget and was therefore asking the Commissioners for the money. The Commissioners advised Lori to check the references of the company that put forth the lowest bid. Also that Lori has the option to utilize the second bid at \$7,300.00 if she feels more comfortable with the vendor. They indicated these costs would be taken from the loan money for this construction project.

There was some discussion of the Justice benches, space for the second Justice Court and re-model. It was noted out of the \$76,000.00 loan money, after the Juvenile Detention project, there will be \$12,000.00 left to start the Justice Court remodel. Commissioner Chilcott stated once they start the construction of the second courtroom, the other offices would be displaced. Therefore, all of the offices that will be affected need to meet. It was agreed that the current Justice Court would stay where it is, but new carpet needs to be installed. There was discussion of obtaining bids for the start of this remodel because it is separate from the Juvenile Detention remodel. It was agreed that Administrative Director Skip Rosenthal would help in this bid process. The next meeting will be February 25th at 2:00 p.m.

In other business the Board met with John German who is a resident of Hayes Creek Road. Also present at this meeting was Civil Counsel James McCubbin and Road Supervisor David Ohnstad. Mr. German gave a brief recap of a November meeting in 2002. He stated one road belongs to a subdivision and he would like to see if the county or the Forest Service has jurisdiction of this road. He stated there were some deeds prepared on the subdivision in 1972, which shows the road was to be deeded to the county. His question is; if this is a Forest Service Road, a county road, or does the road belong to the citizens who own lots in the subdivision. He stated if the citizens own the roads then under a court case in 1982, it allows the citizens to own to the middle of the road. Commissioner Thompson stated the road does not become a county road until the county adopts it.

John stated he has a 60' wide easement granted to his property and this easement was done when the subdivision was created. Commissioner Chilcott asked why John was interested in blocking the road off. John stated there are two issues; the area where he blocks the road, and who owns the road. James stated Mr. German had previously blocked a Forest Service road and was found guilty of that in federal court and was ordered to remove the gate. He then moved the gate onto another road that is not a Forest Service road. James stated the County Attorney's Office is now assessing whether we should take civil or criminal action against Mr. German.

Commissioner Chilcott asked if the road in question accesses the Forest Service Road. If it does, he should not block or interfere with the access to the Forest Service Road. Mr. German stated he is not blocking the Forest Service road. James stated this is the only road that leads to that Forest Service road. James stated the argument is over the road being outside the platted easement. Mr. German and his Attorney are disagreeing with the court's opinion.

Mr. German stated he has letters from the county to the Forest Service on how they can get to that property. He began to discuss the citations. James stated he will not engage in this type of conversation as Mr. German is represented by his own counsel.

Mr. German asked if the road belonged to the Forest Service or the people within the subdivision. Commissioner Chilcott asked if this would be the decision in court. James

stated no, the issue will be whether he is blocking the public road and in his legal opinion the answer is yes.

There was some discussion of the location of the road. Mr. German stated this road has been in existence for some twenty years. Mr. German stated the easement is only good for the people that need the easement in order to travel to their properties. He stated it is not for people who are hunting, cutting wood etc.). He further stated if they were to use the original right of way that was platted in 1909; the Forest Service can get to their property. Right now the only access is the road.

Commissioner Chilcott stated then it seems Mr. German is blocking the access to the Forest Service and he has obstructed the citizen's access to Forest Service property. Mr. German stated he has asked the Commissioners to help him put the road where it needs to be because this is his easement.

Commissioner Chilcott stated it appears that Mr. German is violating Judge Erickson's court order.

David stated Hughes Creek is a public road which extends to a Forest Service area that citizens have historically utilized. He also relayed that the Court has ruled that this is a road used by the public. The road has been used and existed for many years as has the other county roads.

Mr. German stated the road has to be maintained by the county in order to be a county road. Commissioner Chilcott stated that is not true, it can be a county road and not be maintained.

Mr. German stated he asked two years ago to settle this. He has put this gate up based upon what the Montana Statute states. He stated he does not care what James or David states. He stated that James has ignored him and he is not represented by legal counsel because legal counsel only wrote a letter for him.

Commissioner Chilcott stated there are some disputes of facts in this case. Mr. German asked what would move the court forward to decide on this matter. James stated it would come down to whether the County Attorney's Office decides to file civilly or criminally against Mr. German.

James stated the Commissioners can continue talking to Mr. German, however they need to remember the County Attorney may file a criminal action against Mr. German.

Commissioner Chilcott advised Mr. German that the Commissioners can not offer Mr. German any thing more due to the potential action by the county and the ruling by the federal court judge. Commissioner Chilcott further advised Mr. German that it was his opinion that Mr. German was violating a court order. Commissioner Thompson stated the issue is the fence that Mr. German has put up is blocking access to the public land.

Commissioner Chilcott advised Mr. German that the County Attorney is waiting for a response from the Attorney General relative to this issue before they proceed. James reiterated that the County Attorney's Office is deciding whether this violation should be filed in civil court or in criminal court. Furthermore, there is a fine imposed at \$10.00 per day while this fence is up. He advised Mr. German to seek his own legal counsel or to take the fence down.

Commissioner Chilcott asked Mr. German why he did not remove the fence. Mr. German stated it was because people come into his yard and turn around. He stated one neighbor took hundreds of yards of dirt from the road and utilized it. He felt that was theft of county property and the county did not prosecute the person for that. He stated he is simply asking the Commissioner to put the easement where it belongs.

Commissioner Lund stated she was originally going to do some research on this issue but because of the legal issues she did not. She stated she does not know if the parcels of land are a subdivision, but she knows they were created by a Certificate of Survey and they did not receive subdivision review. Commissioner Lund also stated she is more inclined to state this is not a subdivision. James stated it is the parcels were not created through subdivision but through a Certificate of Survey.

James stated the discussion of the Certificate of Survey is not relevant to this road issue. And because it will probably be prosecuted by the County Attorney's Office, under the Public Nuisance statute, it is beyond the Commissioners scope of action. The duties of encroachment are set by statute.

Commissioner Lund asked if the gate was open. Mr. German stated the gate is open.

Mr. German asked when he would hear from the County Attorney's Office. James stated the county will follow the statue and Mr. German should visit with his own legal counsel relative to this issue. Commissioner Chilcott stated he supports the position of the Road Supervisor and County Attorney.

Mr. German asked what the county is doing with the man who stole the dirt. James stated there are no facts to support any prosecution of this theft. Mr. German stated he can obtain pictures and or talk to the people who took the dirt. James stated Mr. German did not have those facts one year ago when they visited about the dirt issue. Also, when Mr. German brought this up one year ago in a public meeting the Sheriff was present and chose not to do anything with the information that Mr. German presented.

Commissioner Thompson stated that was Sheriff Johnson and investigation was done but the Sheriff obviously decided not to move forward on it. Mr. German stated the Sheriff investigated something different.

The meeting was then adjourned.

In other business, Commissioner Lund attended a Managing Employees Seminar during the afternoon hours.